
North Coast Regional Water Quality Control Board

April 28, 2015

In the Matter of

Water Quality Certification

for

Bureau of Reclamation – Trinity River Restoration Program
Coarse Sediment Management Activities
WDID No. 1A09154WNTR

APPLICANT: U.S. Bureau of Reclamation, Trinity River Restoration Program
RECEIVING WATER: Trinity River
HYDROLOGIC UNIT: Douglas City Hydrologic Subarea 106.31
COUNTY: Trinity
FILE: Bureau of Reclamation, Trinity River Restoration Program
Coarse Sediment Management Activities
WDID No. 1A09154WNTR, ECM PIN CW-748341

BY THE EXECUTIVE OFFICER:

1. On November 21, 2014, the Bureau of Reclamation – Trinity River Restoration Program, Robin Schrock (Applicant) filed an application for reissuance of water quality certification (certification) under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) for activities associated with the Trinity River Restoration Program Coarse Sediment Management Activities Project (Project). The previous certification for these activities was issued on January 20, 2010. The Applicant conducted coarse sediment augmentation activities during the previous permit cycle. Information describing the Project was noticed for public comment on the Regional Water Board’s website on December 12, 2014. We received three public comment

letters on the Project. The Regional Water Board considered and responded to comments that directly related to CEQA (as Lead Agency) and comments related to this 401 Water Quality Certification discretionary action. Comments related to the Applicant's program that were outside the purview of the Regional Water Board were addressed by the Applicant. Comments and responses were documented in the Applicant's project file at the Regional Water Board.

2. The proposed Project will cause temporary disturbances to waters of the United States and the State associated with five sites within the Trinity River Hydrologic Unit No. 106.31. The proposed Project sites for high flow coarse sediment injection remain unchanged and are located between the Lewiston Dam and Grass Valley Creek at the following location and latitude and longitude, Trinity River Fish Hatchery (40.72511° N/122.80017° W), Lewiston Upstream (Weir Hole)(40.72021° N/122.80322° W), Lewiston Downstream (40.71089° N/122.80664° W), Sawmill (40.71113° N/122.81824° W), and Lowden Ranch (Bucktail) (40.69475° N/122.85575° W) along the Trinity River, Trinity County. No permanent impacts to waters of the U.S. and the State are proposed. All impacts to waters, the addition of clean native spawning river coarse sediment, are considered temporary.
3. Coarse sediment management activities are part of a larger effort by the Applicant to restore anadromous fishes and healthy river functions to the Trinity River, as described in the Secretary of Interior's 2000 Trinity River Record of Decision (ROD). The ROD sets forth prescribed flows for five water year types, and acknowledged that the Trinity River Division (TRD) of the Central Valley Project (i.e. dams) eliminated supplies of coarse sediment from upstream sources. The ROD also acknowledged the need to ensure that the sediment flux is managed to complement the prescribed flows and mechanical channel rehabilitation components, and the need for coarse sediment augmentation downstream of Lewiston Dam for the life of the TRD.
4. The need for supplying additional coarse sediment below Lewiston Dam is due to the elimination of spawning sized gravels originating upstream of the dam, the long-term effects of controlled dam releases, and the reduced frequency and magnitude of high flows since the dam was completed. In addition to the site-specific placement of coarse sediment at the remaining Phase 1 and Phase 2 sites, the addition of clean coarse sediment to the mainstem Trinity River at the Trinity River, Fish Hatchery, Lewiston Upstream (Weir Hole), Lewiston Downstream, Sawmill, and Lowden Ranch (Bucktail) sites is part of the long-term coarse sediment management activities that will be conducted between Lewiston Dam and Grass Valley Creek. This section of the river has the greatest coarse sediment deficit and the greatest number of anadromous fish attempting to spawn. Coarse sediment augmentation at these five sites is expected to occur primarily during high spring flows when coarse sediment may be introduced to the river mechanically and immediately transported downstream by flows. Coarse sediment may also be directly placed in-channel with heavy equipment during summer low-flow conditions. The Applicant and Trinity Management Council

representatives use ongoing monitoring in conjunction with water year projections to determine the precise locations and extent of coarse sediment augmentation activities on a yearly basis.

5. The primary purpose of the Project is to restore aquatic habitat in the Trinity River by injecting coarse sediment (clean native gravel 3/8 to 5 inch diameter) to supplement coarse sediment removed from the system by the Lewiston Dam. The proposed Project would include introducing coarse sediment into the river primarily at high spring flows with heavy equipment or by using a conveyor system to carry the gravel to mid-channel locations. Coarse Sediment may also be directly placed in-channel with heavy equipment during summer low-flows conditions. The timing of gravel introduced is dependent on the water year and resulting allowable flows as prescribed in the Secretary of the Interior's 2000 Trinity River Record of Decision (ROD). The volume of coarse sediment to be added to the system is determined by the flow release schedule as well as sediment budget and transport computations. The proposed permit volume introduced may vary from a low of zero cubic yards (cy) in extremely dry years to a high of approximately 67,000 cy during extremely wet years as recommended in the ROD. The Applicant anticipates placing up to approximately 10,000 cy with an average of approximately 2,000 cy each year into the system.
6. The Project is planned to begin in 2015 and be conducted through 2020 during annual river flow releases.
7. Coarse sediment augmentation activities do not include installation of any permanent structures or fill and the primary purpose is to restore aquatic habitat in the Trinity River. Due to the nature of these restoration activities, all impacts are considered temporary. Compensatory mitigation is not required. Mitigation measures to avoid significant environmental effects are incorporated as conditions of this permit. Non-compensatory mitigation for this project includes the use of Best Management Practices (BMPs) for heavy equipment use in a waterway to prevent or reduce any discharges during and after construction.
8. The Water Quality Control Plan for the North Coast Region (Basin Plan) contains the following water quality objective for turbidity: "Turbidity shall not be increased more than 20 percent above naturally occurring background levels. Allowable zones of dilution within which higher percentages can be tolerated may be defined for specific discharges upon the issuance of discharge permits or waiver thereof." The Regional Water Board has determined that an allowable zone of turbidity dilution is appropriate due to the nature of the proposed restoration activities and the clarity of the Trinity River during low flow conditions. The zone of turbidity dilution within which higher percentages will be tolerated is defined as the full width of the river channel within 500 linear feet downstream of any project activity that increases naturally occurring background levels, provided that all other required controls and

appropriate BMPs are in place and downstream beneficial uses are also fully protected. Project impacts shall not increase turbidity levels at the point of compliance (500 linear feet downstream of the point impact) greater than 20 percent above naturally occurring background or 20 NTUs whichever is greater. When naturally occurring background levels are greater than 20 NTUs, turbidity levels downstream of the 500 linear foot zone of dilution shall not be increased by more than 20 percent above the naturally occurring background level.

9. The Applicant has obtained authorization from the United States Army Corps of Engineers for a Clean Water Act, section 404 (File No. 2012-00369N) for these activities to be conducted under Nationwide Permit No. 27 and anticipates continued future permit coverage. The Applicant has determined that a Lake or Streambed Alteration Agreement is not required for this project.
10. The Regional Water Board, as lead agency under the California Environmental Quality Act (CEQA), submitted a Joint Environmental Document including a Draft Master Environmental Impact Report (MEIR) and Environmental Assessment/Draft EIR (EA/DEIR) (SCH# 2008032110) for the initial project to the State Clearinghouse on June 5, 2009, for a 45-day review and comment period. The Regional Water Board issued the Final MEIR/EIR on August 24, 2009, and filed a Notice of Determination on August 25, 2009. The proposed Project is identical to the initial project proposed and authorized in 2009. Pursuant to California Code of Regulations, title 14, section 15177, subd. (b)(2), and section 15179, subd. (b)(2) the Regional Water Board prepared an Initial Study on the proposal and determined that the subsequent project was adequately described, analyzed and mitigated for and within the scope of the MEIR findings. On March 20, 2015, the Regional Water Board circulated the Initial Study through the state clearinghouse for 30 days to receive public comment (SCH# 2015032070). Pursuant to California Code of Regulations, title 14, section 15179, subd. (b)(1), the Regional Water Board proposes a finding that no substantial changes have occurred with respect to the circumstances under which the MEIR was certified, or that there is no new available information which was not known and could not be known at the time of the MEIR was certified. Therefore, this MEIR may be used in accordance with this article to review such a subsequent project and is considered adequate by the Regional Water Board. All mitigation measures previously identified in the MEIR are again incorporated as enforceable conditions of this Order.
11. The Trinity River is identified as impaired for sediment under Clean Water Act Section 303(d). Bank erosion is identified as a source contributing to the sediment impairment. Removal of riparian vegetation is identified as a source contributing to sediment impairment. Activities that will be authorized by this Order are designed to reduce removal of riparian vegetation and reduce sediment discharges from bank erosion. Accordingly, this Order is consistent with, and implements, BMPs that would attenuate sediment and temperature adverse impacts.

12. Pursuant to Regional Water Board Resolution R1-2004-0087, Total Maximum Daily Load Implementation Policy Statement for Sediment-Impaired Receiving Waters within the North Coast Region (Sediment TMDL Implementation Policy), the Executive Officer is directed to “rely on the use of all available authorities, including existing regulatory standards, and permitting and enforcement tools to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers of sediment waste.”
13. Coarse sediment management activities are part of a larger project to restore the anadromous fishery of the Trinity River. The larger project encompasses a 40-mile stretch of the Trinity River from Lewiston to the North Fork Trinity River. This entire stretch is federally designated under the Wild and Scenic System to preserve its Outstandingly Remarkable Values (ORVs), which include the river’s free-flowing condition, anadromous and resident fisheries, outstanding geologic resource values, scenic values, recreational values, cultural and historic values, and the values associated with water quality. This segment of the Trinity River is also classified as a Recreational River by the Bureau of Land Management (BLM) and the Shasta-Trinity National Forest. Implementation of the project would not affect the free-flowing condition of this segment of the Trinity River, would not affect the river’s water quality, and would have no effect on the ORVs for which the river is designated. The Regional Water Board has previously notified the California Natural Resources Agency of its intent to approve Trinity River Restoration Program projects.
14. Section 131.12 of the U.S. EPA’s Water Quality Standards regulations includes the “federal antidegradation policy” which emphasizes protection of instream beneficial uses, especially protection of aquatic organisms. As required by the federal antidegradation policy (40 C.F.R. §131.6(d)), each state’s water quality standards must include a policy consistent with the federal antidegradation policy. The State Water Board established California’s antidegradation policy in State Water Board Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Water Board’s Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies. Restoration projects must conform to the state and federal antidegradation policies. This Order is consistent with applicable federal and State antidegradation policies. Restoration projects are intended for the purpose of correcting a water quality problem or condition, which is causing, or threatens to cause, a detrimental effect on an aquatic ecosystem and beneficial uses. Although a restoration project may result in a discharge of waste to a water of the State, or a water of the United States, or both, the impacts are intended to be temporary in nature with the purpose of providing a net benefit to water quality.

15. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification," which requires compliance with all conditions of this water quality certification. (Weblink attached below).

Receiving Water: Trinity River in the Douglas City Hydrologic Subarea
106.31

Filled or Excavated Area: Permanent impact to waters of the State:
None
Temporary impact to waters of the State:
None

Channel and Shoreline: Permanent impact to waters of the State:
None
Temporary impact to waters of the State:
None

Dredge Volume: None

Latitude/Longitude: Trinity River Fish Hatchery: 40.72511 N/122.80017 W
Lewiston Upstream (Weir Hole): 40.72021
N/122.80322 W
Lewiston Downstream: 40.71089 N/122.80664 W
Sawmill: 40.71113 N/122.81824 W
Lowden Ranch (Bucktail): 40.69475 N/122.85575 W

Expiration: April 28, 2020

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Trinity River Restoration Program Coarse Sediment Management Activities Project (WDID No. 1A09154WNTR), as described in the application, will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law, provided that the Applicant complies with the following terms and conditions:

All conditions of this order apply to the Applicant (and all their employees) and all contractors (and their employees), sub-contractors (and their employees), and any other entity or agency that performs activities or work on the project as related to this Water Quality Certification.

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 3867.

2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to title 23, California Code of Regulations, section 3855, subdivision (b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of this certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 3833, and owed by the Applicant.
4. This certification will be subject to annual billing during the construction phase ("Annual Active Discharge Fee") and during the monitoring phase of the project ("Annual Post Discharge Monitoring Fee"), per the current fee schedule, which can be found on our website:
http://www.swrcb.ca.gov/northcoast/water_issues/programs/water_quality_certification.shtml These fees will be automatically invoiced to the applicant.
5. The Applicant shall notify the Regional Water Board each year prior to the commencement of any coarse sediment management activities, with details regarding the volume, location and schedule of activities.
6. The mitigation measures and monitoring and reporting requirements detailed in Appendix A in the MEIR and EA/EIR SCH#2008032110, finalized by the Regional Water Board on August 24, 2009, are hereby incorporated by reference and are conditions of approval of this certification. Notwithstanding any more specific conditions in this certification, the Applicant shall comply with all applicable mitigation measures identified in the MMRP.
7. This Order provides an allowable zone of turbidity dilution within which turbidity levels may be increased by more than 20 percent above naturally occurring background levels. To ensure that turbidity levels do not exceed the thresholds described above during in-river project construction activities, the Applicant shall monitor turbidity levels upstream within 50 feet of project activities (i.e. natural background) and 500 feet downstream of the in-river construction activities that could increase turbidity. The Applicant shall monitor for turbidity increases and shall collect field turbidity measurements in accordance with Mitigation Measure 4.5 -1a and Mitigation Measure 4.5-1b in the MMRP. At a minimum, field turbidity measurements shall be collected whenever a visible increase in turbidity is observed. Monitoring frequency shall be a minimum of every two hours during in-river work periods and when activities commence that are likely to increase turbidity levels above any previously monitored levels. Project impacts shall not increase turbidity

levels at the point of compliance (500 linear feet downstream of the point impact) greater than 20 percent above naturally occurring background or 20 NTUs whichever is greater. If grab sample results indicate that turbidity levels exceed these levels, remedial actions will be implemented to reduce and maintain turbidity to these levels immediately downstream of the 500 linear foot zone of dilution. Potential remedial actions include halting or slowing construction activities and implementation of additional BMPs until acceptable turbidity levels are achieved. If naturally occurring background levels are greater than 20 NTUs, turbidity levels downstream of the 500 linear foot zone of dilution shall not be increased by more than 20 percent above the naturally occurring background level.

Results of annual monitoring of the mitigation measures will be reported to the Regional Water Board annually. Reports shall summarize data collected, annual performance, any remedial action necessary and whether success criteria are met.

8. Only wildlife-friendly, 100 percent biodegradable erosion and sediment control products that will not entrap or harm wildlife shall be used. Erosion and sediment control products shall not contain synthetic (e.g., plastic or nylon) netting. Photodegradable synthetic products are not considered biodegradable. The applicant shall request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.
9. BMPs shall be implemented as proposed in the application materials. BMPs for erosion, sediment and turbidity control shall be implemented and in place at commencement of, during and after any ground clearing activities or any other Project activities that could result in erosion or sediment discharges to surface water. Severe and unseasonal rain events are becoming more frequent due to the effects of climate change. Therefore, BMPs shall be immediately available for deployment at all times to prevent discharges to waters of the state.
10. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this Order, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State. When operations are completed, any excess material or debris shall be removed from the work area.
11. The Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this certification.
12. If, at any time, an unauthorized discharge to surface water (including wetlands, lakes, rivers or streams) occurs, or any water quality problem arises, the associated Project activities shall cease immediately until adequate BMPs are implemented including

stopping work. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.

13. Prior to implementing any change to the Project that may have a significant or material effect on the findings, conclusions, or conditions of this Order, the Applicant shall obtain the written approval of the Regional Water Board Executive Officer. If the Regional Water Board is not notified of a significant alteration to the Project, it will be considered a violation of this Order, and the Applicant may be subject to Regional Water Board enforcement action(s).
14. All Project work shall be conducted as described in this Order and in the application submitted by the Applicant, and shall comply with all applicable water quality standards as detailed in the Basin Plan. If the Regional Water Board is not notified of a significant alteration to the Project, it will be considered a violation of this Order, and the Applicant may be subject to Regional Water Board enforcement actions.
15. The Applicant shall provide a copy of this Order and State Water Resources Control Board (SWRCB) Order No. 2003-0017-DWQ to any contractor(s), subcontractor(s), and utility company(ies) conducting work on the Project, and shall require that copies remain in their possession at the work site. The Applicant shall be responsible for ensuring that all work conducted by its contractor(s), subcontractor(s), and utility companies is performed in accordance with the information provided by the Applicant to the Regional Water Board.
16. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the Project.
17. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall not result in a discharge or threatened discharge to any waters of the State including dry portions of the shoreline. At no time shall the Applicant or its contractors allow use of any vehicle or equipment, which leaks any substance that may impact water quality.
18. The Regional Water Board may add to or modify the conditions of this Order, as appropriate, to implement any new or revised water quality standards and implementation plans adopted and approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.
19. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water

quality standards and other pertinent requirements incorporated into this Order. In response to a suspected violation of any condition of this certification, the State Water Board may require the holder of any federal permit or license subject to this Order to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this Order, the Regional Water Board may add to or modify the conditions of this Order as appropriate to ensure compliance.

20. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall email a copy of the letter to the following email address: NorthCoast@waterboards.ca.gov

To discharge dredged or fill material under this Order, the successor-in-interest must email the Regional Water Board Executive Officer at: NorthCoast@waterboards.ca.gov a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, and the address and telephone number of the person(s) responsible for contact with the Regional Water Board.

The request must also describe any changes to the Project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the Project as described in this Order. Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited to and all proposed mitigation being completed in strict compliance with the Applicant's Project description, and b) compliance with all applicable requirements of the Water Quality Control Plan for the North Coast Region (Basin Plan).

21. The authorization of this certification for any dredge and fill activities expires on April 28, 2020. Conditions and monitoring requirements outlined in this Order are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

If you have any questions or comments, please call Gil Falcone at (707) 576-2830 or Stephen Bargsten at (707) 576-2653.

Original electronically signed by

Matthias St. John
Executive Officer

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- Weblink:** State Water Resources Control Board Order No. 2003-0017 -DWQ, General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification can be found at:
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf
- Original to:** Ms. Robin Schrock, Trinity River Restoration Program, PO Box 1300, 1313 South Main Street, Weaverville, CA 96093
Mr. Brandt Gutermuth, Trinity River Restoration Program, PO Box 1300, 1313 South Main Street, Weaverville, CA 96093 bgutermuth@usbr.gov
- Copy to:** Holly Costa, US Army Corps of Engineers holly.n.costa@usace.army.mil
Roberta Morganstern, US Army Corps of Engineers
Roberta.A.Morganstern@usace.army.mil